

MEMORANDUM

Agenda Item No. 11(A)(21)

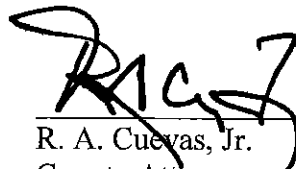
TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: June 2, 2015

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution directing the County Mayor to take immediate action to recover all outstanding monies owed by all persons or entities doing business at or with the County at Miami International Airport and the County's general aviation airports; limiting the County Mayor's ability to toll cure periods; requiring provision of quarterly reports on all amounts due from businesses at Miami International Airport and the county's general aviation airports

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa.



R. A. Cuevas, Jr.
County Attorney

RAC/lmp




MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

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County Attorney

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Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

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Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 11(A)(21)

6-2-15

RESOLUTION NO. _____

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TAKE IMMEDIATE ACTION TO RECOVER ALL OUTSTANDING MONIES OWED BY ALL PERSONS OR ENTITIES DOING BUSINESS AT OR WITH THE COUNTY AT MIAMI INTERNATIONAL AIRPORT AND THE COUNTY'S GENERAL AVIATION AIRPORTS; LIMITING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE'S ABILITY TO TOLL CURE PERIODS; REQUIRING PROVISION OF QUARTERLY REPORTS ON ALL AMOUNTS DUE FROM BUSINESSES AT MIAMI INTERNATIONAL AIRPORT AND THE COUNTY'S GENERAL AVIATION AIRPORTS

WHEREAS, Miami International Airport (MIA) is the leading economic engine in Miami-Dade County; and

WHEREAS, MIA operates a variety of concessions, leases space to numerous tenants, and permits third party economic activity at MIA, all of which generate revenue for MIA; and

WHEREAS, uncollected revenue at MIA can translate into higher fees for airlines using MIA; and

WHEREAS, based on recent investigations and testimony to this Board of County Commissioners, it is apparent that MIA is not collecting all revenue to which it is entitled; and

WHEREAS, allowing unpaid revenues to go uncollected is harmful to MIA; and

WHEREAS, allowing unpaid revenues to go uncollected is corrosive to the public trust in good government; and

WHEREAS, allowing entities who attempt to avoid payment obligations to continue to make use of MIA punishes those entities who in good faith comply with County rules and contractual payment obligations,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The County Mayor or County Mayor's designee is hereby directed to take immediate action to recover all monies owed to Miami-Dade County by all persons and entities doing business at or with the County at Miami International Airport or any of the County's general aviation airports, and arising out of any contractual or permit obligation to Miami-Dade County. These actions may include, but are not limited to:

a. Issuance of default notices to concessionaires, permittees, or lessees who have failed to make contractually obligated payments, and the termination of such concession, permits, or leases in the event such defaults are not cured;

b. Revocation of permits to do business at Miami International Airport or at any County owned general aviation airport;

c. Debarment proceedings against any entity which has fraudulently attempted to avoid contractual payment obligations; and

d. Referral of suspected instances of under-payment or non-payment to the Office of the Inspector General, but referral of such instances shall not excuse failure to take immediate action to collect known outstanding debts.

Section 2. In the event that immediate action to recover such monies owed will result in substantial and prolonged negative impacts to travelers or airlines making use of MIA, the County Mayor or County Mayor's designee may request, via Resolution to this Board, that recovery efforts be suspended or abated. In such Resolution, the County Mayor will specify the specific reasons he or she believes that immediate recovery is not in the best interests of Miami-

Dade County and/or MIA or any of the County's general aviation airports, and will provide a specific plan, with deadlines, by which the County Mayor or County Mayor's designee intends to recover such unpaid amounts. That Resolution shall be filed with the Clerk of the Board. In the event this Board approves such Resolution, the County Mayor or County Mayor's designee shall undertake recovery efforts as described in the approved plan. Notwithstanding, during the period after such Resolution is filed with the Clerk of the Board and prior to action on such Resolution by this Board, the County Mayor or County Mayor's designee may refrain from taking actions to recover such unpaid amounts.

Section 3. The County Mayor or County Mayor's designee shall not toll or extend any contractual cure period for any person or entity doing business at MIA or any of the County's general aviation airports, and any tolling or extension shall be deemed unauthorized and ultra vires if not approved by this Board. In the event that the County Mayor or County Mayor's designee wishes to toll or extend a cure period, the County Mayor or County Mayor's designee may, via Resolution to this Board, request approval for such tolling and extension. In such Resolution, the County Mayor will specify the ongoing good faith efforts of the person or entity to cure all existing defaults, and a specific schedule, with enforceable deadlines and deliverables, according to which the default will be cured. That Resolution shall be filed with the Clerk of the Board. In the event that this Board approves such Resolution, the County Mayor or County Mayor's designee may toll or extend a cure period to the extent authorized in the approved plan. Notwithstanding, during the period after such Resolution is filed with the Clerk of the Board and prior to action on such Resolution by this Board, the contractual period shall be deemed tolled or extended.

Section 4. The County Mayor or County Mayor's designee shall request that the County Attorney's Office commence litigation against any person or entity which has failed to pay all monies owed arising out of such person's or entity's business at MIA or any of the County's general aviation airports.

Section 5. The County Mayor shall provide a quarterly report to this Board of all amounts owed to the County by all persons or entities doing business at or with MIA or any of the County's general aviation airports, and the status of recovery efforts with respect to such person or entity. This report shall list all instances in which the County Mayor or County Mayor's designee took actions pursuant to Section 2-286.1 of the Code of Miami-Dade County or other authority, and which resulted in the administrative adjustment of any amounts which were or would have been owed to the County by persons or entities doing business at MIA.

Section 6. All provisions herein shall apply equally to concessionaires, permittees, and lessees at any County owned general aviation airport.

Section 7. The provisions of this Resolution shall not apply with respect to unpaid monies or fees which do not arise out of a contract, lease, or permit related to such person's or entity's operation of a business at a County owned airport, and shall not be applicable with respect to fees imposed by any County Department other than the Miami-Dade County Aviation Department.

The Prime Sponsor of the foregoing resolution is Commissioner Rebeca Sosa. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	
Esteban L. Bovo, Jr., Vice Chairman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 2nd day of June, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



David M. Murray